

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

10 DONNIE PHILLIPS, ) 2:02-cv-1296-GEB-JFM-P  
11 Plaintiff, ) TRANSMISSION TO PARTIES  
12 v. ) OF TRIAL DOCUMENTS  
13 TED SANCHEZ, )  
14 Defendant.<sup>1</sup> )  
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16 The jury trial in this case commences at 9:00 a.m. on  
17 August 15, 2006. Appended to this Order are tentative jury

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28 <sup>1</sup> The caption has been changed in accordance with the Order  
filed March 26, 2004.

1 instructions,<sup>2</sup> voir dire, and a verdict form.

2 Dated: August 7, 2006

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4 /s/ Garland E. Burrell, Jr.  
5 GARLAND E. BURRELL, JR.  
6 United States District Judge

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24 Since the parties stipulated at the Trial Confirmation  
25 Hearing held on January 13, 2006, that Defendant acted under  
26 color of state law, that element has been omitted from closing  
27 instruction number six. Further, no qualified immunity  
28 instruction has been included since Defendant failed to include  
it in his Pretrial Statement or the Pretrial Order. See Hotel  
Emp., et al. Health Tr. v. Elks Lodge 1450, 827 F.2d 1324, 1329  
(9th Cir. 1987) ("Issues not preserved in the pretrial order are  
eliminated from the action.").